

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	ITC-214-20070611-00223
Air Channel Communications, Inc.)	(Terminated)
Termination of International Section 214)	
Authorization)	

ORDER

Adopted: March 25, 2019**Released: March 25, 2019**

By the Chief, Telecommunications and Analysis Division, International Bureau:

I. INTRODUCTION

1. By this Order, we declare the international Section 214 authorization granted to Air Channel Communications, Inc. (Air Channel) terminated because of Air Channel's inability to comply with an express condition of the authorization.¹ We also conclude that Air Channel failed to comply with those requirements of the Communications Act of 1934, as amended (the Act) and the rules that ensure that the Federal Communications Commission (Commission) can contact and communicate with the authorization holder and verify that Air Channel is still providing service. These failures have prevented any way of addressing Air Channel's inability to comply with the condition of its authorization.

II. BACKGROUND

2. Section 214(a) of the Act prohibits any carrier from constructing, extending, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate of authorization from the Commission.² Under Section 214(c) of the Act, the Commission "may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require."³

3. On October 15, 2007, the International Bureau (Bureau) granted Air Channel an international Section 214 authorization to provide international global or limited global resale authority, in accordance with Section 63.18(e)(2) of the Commission's rules.⁴ The Bureau granted the application on the express condition that Air Channel abide by the commitments and undertakings contained in its July 31, 2007 Letter of Assurance (LOA) to the U.S. Department of Justice (DOJ), including the Federal

¹ The International Bureau granted Air Channel's authorization under File No. ITC-214-20070611-00223. *International Authorizations Granted, Section 214 Applications* (47 C.F.R. § 63.18); *Section 310(b)(4) Requests*, Report No. TEL-01197, Public Notice, 22 FCC Rcd 18581 (IB 2007) (*Air Channel Authorization*).

² 47 U.S.C. § 214(a); 47 CFR § 63.18 (stating any carrier seeking Section 214 authority "for the provision of common carrier communications services between the United States, its territories or possessions, and a foreign point shall request such authority by formal application"). The Commission granted "blanket" Section 214 authority to carriers providing domestic service but did not extend this authority to international services. *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996*, CC Docket No. 97-11, AAD File No. 98-43, Report and Order, Second Memorandum Opinion and Order, 14 FCC Rcd 11364, 11365-66, para. 2 & n.8 (1999).

³ 47 U.S.C. § 214(c).

⁴ *Air Channel Authorization*, 22 FCC Rcd 18581; 47 CFR § 63.18(e)(2).

Bureau of Investigation (FBI), and the U.S. Department of Homeland Security (DHS).⁵ The LOA outlines commitments made by Air Channel to address national security, law enforcement, and public safety concerns.⁶

4. On July 17, 2018, the DOJ, including the FBI, with the concurrence of DHS (collectively, the “Executive Branch Agencies”) notified the Commission of Air Channel’s non-compliance with the conditions of its authorization and requested that the Commission terminate, declare null and void, and no longer in effect, the international Section 214 authorization issued to Air Channel.⁷ The Executive Branch Agencies contend that Air Channel is no longer in business based on attempted contact with the company, evidence acquired through open source, and information provided by a former point of contact.⁸ The Executive Branch Agencies state that on July 31, 2012, the designated point of contact informed DHS that she had not had any contact with the company since completing the application process and concluded that the business never got off the ground.⁹ In addition, the Executive Branch Agencies state that Air Channel has not filed any of its international traffic and revenue reports with the Commission.¹⁰ For these reasons, the Executive Branch Agencies conclude that Air Channel is no longer providing services pursuant to its authorization.¹¹

5. The Commission has made significant efforts to communicate with Air Channel, but has also been unable to do so. On August 20, 2018, the Bureau’s Telecommunications and Analysis Division sent Air Channel a letter to the last addresses of record requesting that Air Channel respond to the July 17, 2018 DOJ Letter by September 19, 2018.¹² Air Channel did not respond. Since that time, the Bureau has provided Air Channel with an additional opportunity to respond to these allegations.¹³ The Bureau stated

⁵ *Air Channel Authorization*, 22 FCC Rcd 18581; Air Channel Communications, Inc., Petition to Adopt Conditions to Authorizations and Licenses, File No. ITC-214-20070611-00223 (filed Oct. 11, 2007); Letter from Richard Taiwo, President, Air Channel Communications, Inc., to Sigal P. Mandelker, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, Steward A. Baker, Assistant Secretary of Policy, U.S. Department of Homeland Security, and Elaine N. Lammert, Deputy General Counsel, Federal Bureau of Investigation (July 31, 2007) (LOA).

⁶ LOA at 1-3.

⁷ Letter from Richard Sofield, Principal Deputy Chief, Foreign Investment Review Staff, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC (July 17, 2018) (DOJ Letter).

⁸ *Id.* at 1-2.

⁹ *Id.* at 1.

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² Letter from Denise Coca, Division Chief, Telecommunications and Analysis Division, International Bureau, FCC to Mr. Richard Taiwo, Air Channel Communications, Inc. (August 20, 2018) (*Air Channel Letter*).

¹³ On November 15, 2018, the Bureau released a Public Notice affording Air Channel its “final notice and opportunity to respond” and stating that Air Channel must do so no later than 15 days of the date of the Public Notice. *Final Notice of Intent to Declare the International Section 214 Authorization of Air Channel Communications, Inc. Terminated*, File No. ITC-214-20070611-00223, Public Notice, DA 18-1163 (IB Nov. 15, 2018) (*Air Channel Public Notice*). The Bureau staff mailed the *Air Channel Public Notice* to the applicant, Richard Taiwo, Air Channel Communications, Inc., 515 Main St. Unit #903, Evanston IL, 60202 (USPS tracking number 7004 1160 0000 2623 5236). The mail was delivered on November 26, 2018, but we did not receive the signature card. The *Air Channel Public Notice* was mailed a second time to Richard Taiwo (UPS tracking number 1ZA43F583596037925). The mail was delivered on March 18, 2019 and signed by Richard Taiwo. The Bureau staff also mailed the 2018 *Air Channel Public Notice* to Terri Firestein, the point of contact in the international Section 214 application, 10806 Garrison Hollow Road Clear Spring, MD 21722 (USPS tracking number 7004 1160 0000 2623 5199). The mail was delivered on February 28, 2019 and a signature receipt was received but we are unable to determine the signature name. The Bureau staff also emailed the Public Notice to Terri Firestein at tfireccg@aol.com (the contact email on the international Section 214 application) and staff received an automatic

that failure to respond would result in termination of Air Channel's international Section 214 authorization for failure to comply with the condition of its authorization.¹⁴ To date, Air Channel has not responded to any of the Bureau's or the Executive Branch Agencies' multiple requests to resolve this matter.

III. DISCUSSION

6. We determine that Air Channel's international Section 214 authorization to provide services issued under File No. ITC-214-20070611-00223 has terminated due to Air Channel's inability to comply with an express condition for holding the international Section 214 authorization. The Bureau provided Air Channel with notice and opportunity to respond to the allegations in the July 17, 2018 DOJ Letter concerning Air Channel's non-compliance with the condition of the grant. Air Channel has not responded to any of our multiple requests or requests from the Executive Branch Agencies. We find that Air Channel's failure to respond to our requests demonstrates that it is unable to satisfy the LOA commitments, upon which the Executive Branch Agencies relied in providing their non-objection to the grant of the authorization to Air Channel, and compliance with which is a condition of the grant of Air Channel's international Section 214 authorization.

7. Furthermore, after having received an international Section 214 authorization, a carrier "is responsible for the continuing accuracy of the certifications made in its application" and must promptly correct information no longer accurate, "and in any event, within thirty (30) days."¹⁵ Air Channel has failed to inform the Commission of any changes in its business status of providing international telecommunications services, as required by the rules.¹⁶ Finally, as part of its authorization, Air Channel was required to file an annual international telecommunications traffic and revenue report, as required by Section 43.62 of the Commission's rules, which was in effect until April 2018.¹⁷ Section 43.62(b) stated that "[n]ot later than July 31 of each year, each person or entity that holds an authorization pursuant to section 214 to provide international telecommunications service shall report *whether* it provided international telecommunications services during the preceding calendar year."¹⁸ Our records indicate that Air Channel failed to file annual international telecommunications traffic and revenue reports indicating whether or not Air Channel provided services in 2014 and 2015, as required by Section 43.62(b) of the Commission's rules.¹⁹ Air Channel's failure to adhere to the Commission's rules

electronic reply stating that delivery to recipient was complete, but no delivery notification was sent by the destination server.

¹⁴ *Air Channel Public Notice*.

¹⁵ 47 CFR § 63.21(a).

¹⁶ *Id.* In addition, there is no indication that Air Channel is currently providing service to customers pursuant to its international Section 214 authorization. If Air Channel has discontinued service to customers, it may be in violation of the Commission's rules that require prior notification to the customers of the discontinuance and requires the carrier to file "a copy of the notification on the date on which notice has been given to all affected customers." 47 CFR § 63.19(a)(1), (2).

¹⁷ 47 CFR § 43.62(b). In 2013, the Commission adopted Section 43.62(b) of its rules, which went into effect on February 11, 2015. *Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of Part 43 of the Commission's Rules*, IB Docket No. 04-112, Second Report and Order, 28 FCC Rcd 575 (2013); *Reporting Requirements for U.S. Providers of International Telecommunications Services*, 80 Fed. Reg. 7547 (Feb. 11, 2015). On October 24, 2017, the Commission eliminated the annual traffic and revenue reporting requirement. *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, IB Docket Nos. 17-55 and 16-131, Report and Order, 32 FCC Rcd 8115, 8119, paras. 8-23 (2017); *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, 83 Fed. Reg. 17931 (Apr. 25, 2018).

¹⁸ 47 CFR § 43.62(b) (emphasis added).

¹⁹ *Id.*

designed to ensure its ability to communicate with the holder of the authorization and to verify if the holder is still providing service also warrants termination, wholly apart from Air Channel's non-compliance with the condition of its international Section 214 authorization.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED, pursuant to Sections 4(i), 214, and 413 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214, 413, and Sections 1.47(h), 43.62, 63.18, 63.21, 63.22(h), 63.23(e), and 64.1195 of the Commission's rules, 47 CFR §§ 1.47(h), 43.62, 63.18, 63.21, 63.22(h), 63.23(e), 64.1195, that the international Section 214 authorization issued under File No. ITC-214-20070611-00223 IS HEREBY TERMINATED AND DECLARED NULL AND VOID.

9. IT IS FURTHER ORDERED that the request of the U.S. Department of Justice, including the Federal Bureau of Investigation, and the U.S. Department of Homeland Security IS HEREBY GRANTED to the extent set forth in this Order.

10. IT IS FURTHER ORDERED that a copy of this Order shall be sent by return receipt requested to Air Channel at its last known addresses. In addition, this Order shall be posted in the Commission's Office of the Secretary.²⁰

11. This Order is issued on delegated authority under 47 CFR §§ 0.51, 0.261, and is effective upon release. Petitions for reconsideration under Section 1.106 of the Commission's rules, 47 CFR § 1.106, or applications for review under Section 1.115 of the Commission's rules, 47 CFR § 1.115, may be filed within 30 days of the date of the release of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Denise Coca
Chief, Telecommunications and Analysis Division
International Bureau

²⁰ 47 CFR § 1.47(h).